

## **DOCUMENT RETENTION AND DISPOSAL POLICY**

This policy is intended to offer guidance in relation to the retention and disposal of files, records and documents. The primary reason for this policy is to develop programwide standards on record retention and disposal. The policy is also intended to address the requirements of Sarbanes-Oxley, which requires that organizations should have policies that preclude the destruction of documents that might be germane to an investigation by a governmental entity. The periodic disposal of files and records is necessary for several reasons, not the least of which includes the space limitations of Iowa Legal Aid's offices. In disposing of files, documents and records there is a need to comply with the myriad of state, federal and ethics rules governing records retention.

Clearly, the largest volume of stored documents are client casefiles and records, including CSR, client eligibility and other intake records of individuals provided services not resulting in the opening of a casefile. In addition, offices accumulate other documents and records that are of an administrative, fiscal and informational nature. This would include items such as continuing legal education materials, mailings from LSC backup centers and other substantive materials and periodicals. Unless specified below these documents may be disposed of following an assessment of their value to the office staff and whether they contain current information. Each office may establish its own standards for the disposal of substantive material sent by backup centers or other organizations. Offices are encouraged, however, to have systematic routing and filing systems to encourage use of these materials. It is most important to have a policy and to consistently follow that policy.

### **Administrative and Fiscal Documents:**

Regional office fiscal documents include all records related to the office's petty cash and client trust account, as well as inventory information applicable to the office's library and furniture and equipment stock. These documents should be retained as permanent records and kept in a manner that enables them to be easily retrieved. They include the general ledgers, bank statements, deposit slips, cancelled checks, receipt books, reconciliation statements, client trust cards, and cash receipts logs maintained by all regional offices.

Regional offices may dispose of photocopies of invoices after one year. This normally includes copies of bills from companies like Qwest, West Publishing, etc. Since offices send the originals of these invoices to the Central Office for payment, the copies only need to be retained for a period of no more than a year. This same policy applies to fiscal related items such as travel claims and the monthly PAI, Migrant, IOLTA, and Farm expense reports, where original copies are retained in the Central Office.

Inventory records are permanent records. Inventory cards and depreciation schedules should be maintained in the office's administrative files. Property records should also include any purchase and warranty records for equipment that is still inventoried and being used. Offices must also retain in a retrievable fashion all software licenses, software and operating manuals for computers and software for all equipment still being used.

Annually, offices receive a copy of the program's IRS Form 990, which is to be retained for public inspection for a period of three years following the year of the return. This document may be disposed of after the third year following the year to which it applies.

Regional offices may dispose of employee time and attendance reports after one year. The original copies retained in the Central office shall be kept for seven years as part of the payroll records. Phone message books, mail logs and office calendars may be disposed of after five years. Documents should be retained for longer periods if there is a pending or anticipated action related to professional or personnel performance of an employee. Examples of such situations include pending professional liability claims or adjudication of an employee/employer dispute, as well as pending client complaints or ethical complaints pending before the national Legal Services Corporation or Bar Ethics Committee.

Regional offices should develop their own policies for retaining administrative records such as mail logs, internal memos, and intra-program memos. In most instances this material should be retained for a minimum of one year, unless the document contains information of a more permanent nature. Administrative memos are now archived and accessible via Pika, so hard copies need not be retained.

Programwide records will be retained consistent with the schedule found on page 6 of this policy. In addition, the personnel files of all past and current employees will be retained as permanent records in the Central Office. Employment application materials will be retained by the Central Office for a period of five years. Regional offices with duplicate copies of these materials may dispose of them following the completion of the applicable recruitment effort, although original copies of notes on reference checks or concerning interviews should be forwarded to the Central Office to be kept with the file.

#### **Casefiles and Client Related Documents:**

This category of documents includes all intake, eligibility, alien restriction, legislative/administrative advocacy, and client case related materials retained by a regional office. Any of these materials may be disposed of after five years from the date the case was closed, except when one or more of the following circumstances applies:

1. Materials that pertain to an open active case or are significantly related to another case of the client that is pending in the office.
2. Casefile records of a client who has money on deposit in the office's client trust account. This would include casefile materials for clients who have not been located despite efforts to do so by the office. When the lost client's funds are forwarded to the State Treasurer's office in accordance with Iowa's unclaimed property statute, a notation of the disposal of those funds should be made on the trust account card, in Pika and included in the casefile, and the file shall be retained. Likewise, when the client funds are reverted to Iowa Legal Aid's general account in accordance with the provisions of the program's retainer agreement, a notation of the reversion should be made on the trust account card, in Pika, and in the casefile, and the file retained.

3. Case materials that might have a value as being part of the archives of the program. For example, pleadings and other case documents pertaining to a significant lawsuit handled by Iowa Legal Aid that might serve as training material. Staff are strongly encouraged, however, to archive the materials on the program's advocate website. However, each office should develop a system for retaining and reviewing these materials to ensure their usefulness. Regional office Managing Attorneys should confer with the Litigation Directors on whether a case or document should be retained beyond five years.
4. Casefile materials related to a case that is the subject of a pending or anticipated complaint, lawsuit or investigation. In accordance with the Sarbanes-Oxley Act, such materials cannot be destroyed.
5. Casefiles that contain original documents such as wills or deeds which cannot be retrieved through a clerk of court's office. Retention of these documents should be rare. In all instances special attention must be given to Iowa Ethics Opinion 91-20 (Nov. 14, 1991), which provides in part that, "Iowa Legal Aid properly may destroy files of old cases 5 years after closing,..... provided any client-furnished matter first is offered to be returned to the former client on some reasonable basis, such as a letter to the last known address."
6. Casefile materials related to a pending guardianship for whom the office is responsible which has not been dissolved. Such guardianship arrangements would not normally be part of any advocate's caseload.
7. Casefile materials related to custody determinations. These materials should be retained until the children reach the age of majority, unless there is minimal likelihood that there will be modifications to the order. This would not include orders obtained in Chapter 236 proceedings, since those orders expire after one year.
8. Legislative and administrative advocacy reports retained in the Central Office that are for activities resulting from a request from a legislator or public official may be disposed of after five years. Regional offices may dispose of these reports after one year. Client related reports must be retained for the five year period in both the Central Office and in the regional offices.

Taking into account the above exceptions, a regional office can dispose of casefiles and related materials such as conflict cards, alien restriction documents, exceptions to client eligibility documents and intake related documents, including those related to Volunteer Lawyers Project referrals, after a period of five years. Once the casefile materials are disposed of, corresponding Pika client files should be deleted, along with the records of any opposing parties.

Regional offices should develop case closing systems that take into account whether a

casefile should be retained beyond the normal five year period. Normally this will involve the advocate assigned to the case flagging the file in some manner, so that it can be easily identified in the future as a file that must be retained longer for one of the reasons outlined above. Regional offices should obtain a rubber stamp which reads, "Do Not Dispose of This File." The advocate should include, in any file so designated, a detailed explanation of when and under what conditions such a file might be disposed of in the future.

In disposing of casefiles, an effort should be made to salvage reusable items such as casefile folders and binder clips. Regional offices requiring additional assistance in efforts to dispose of casefiles should contact the Executive Director or Deputy Director for Program Administration to discuss the possibility of hiring short-term help. Special care must be given to preserve the confidentiality of all clients in the course of disposal of client material. Offices should also attempt to recycle the contents of files and other items. Most communities in which offices are located have firms that specialize in shredding and recycling.

This policy pertains to the disposal of non-inventoried documents and records. Iowa Legal Aid's policies in relation to the disposal of inventoried property (library materials, etc.) are subject to LSC's property management policies and Chapter II, Section 1 of the Iowa Legal Aid Program Operations Manual.

#### **Correspondence and Electronic Files:**

Iowa Legal Aid must comply with Section 802 of the Sarbanes-Oxley Act, which addresses the destruction of corporate records. The law makes it a crime to knowingly alter, destroy, mutilate, conceal, cover up, falsify or make a false entry in any document, record or tangible object (or persuade any other person to do so) with the intent to impede, obstruct or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under the Bankruptcy Code (title 11, U.S.C.A.), or in relationship to or contemplation of any such matter or case. Because of the potential for substantial penalties under the Act, the intentional destruction of documents and records must be a process that must be monitored, justified, and carefully administered.

It is the policy of Iowa Legal Aid to comply with the letter and spirit of Section 802 of the Sarbanes-Oxley Act with respect to document destruction while providing for an orderly method for disposing of files and records that are no longer relevant or required. Records and documents covered by this policy include paper, electronic files (including e-mail) and voice mail records. This policy does not apply to client files, documents and records which are covered elsewhere in this policy.

Procedures for paper and electronic correspondence and voice mail:

1. **Discontinuation of Document Destruction.** If an official investigation is underway or even suspected, any document destruction must stop immediately.
2. **Voice Mail.** Voice mail messages are routinely deleted after the recipient responds to them. This practice is acceptable.

3. E-mail. Routine e-mails may be deleted after the recipient reads, responds or acknowledges the message, as appropriate. If the e-mail relates to an ongoing investigation, it must be retained.
4. Electronic Files. An electronic file which must be retained under this policy must be saved in the same manner as a paper document, according to its purpose and category.

# Records Retention Schedule

	<u>Retention Period</u>		<u>Retention Period</u>
Accident reports and claims (settled cases).....	7 years	Invoices to customers.....	7 years
Accounts payable ledgers and schedules.....	7 years	Invoices from vendors.....	7 years
Accounts receivable ledgers and schedules...	7 years	Journals.....	Permanently
Audit reports of accountants.....	Permanently	Minute books of directors and stockholders, including by-laws and charter.....	Permanently
Bank reconciliations.....	1 year	Notes receivable ledgers and schedules....	7 years
Capital stock and bond records; ledgers, transfer registers, stubs showing issues, records of interest coupons, option, etc.....	Permanently	Option records (expired).....	7 years
Cash books.....	Permanently	Payroll records and summaries, including payments to pensioners.....	7 years
Charts of accounts.....	Permanently	Petty cash vouchers.....	3 years
Checks (cancelled but see exception below)..	7 years	Physical inventory tags.....	3 years
Checks (cancelled for important payments, i.e., taxes, purchases of property, special contracts, etc. (Checks should be filed with the papers pertaining to the underlying transaction).....	Permanently	Plant cost ledgers.....	7 years
Contracts and leases (expired).....	7 years	Property appraisals by outside appraisers...	Permanently
Contracts and leases still in effect.....	Permanently	Property records-including costs, depreciation reserves, end-of-year trial balances, depreciation schedules, blueprints and plans.....	Permanently
Correspondence (routine) with customers and vendors.....	1 year	Purchase orders (except purchasing department copy).....	1 year
Correspondence.....	3 years	Purchase orders (purchasing department copy).....	7 years
Correspondence (legal and important matters only).....	Permanently	Receiving sheets.....	1 year
Deeds, mortgages and bills of sale.....	Permanently	Requisitions.....	1 year
Depreciation schedules.....	Permanently	Sales records.....	7 years
Duplicate deposit slips.....	1 year	Savings bond registration records of employees.....	3 years
Employee personnel records (after termination).....	3 years	Scrap and salvage records (inventories, sales, etc.) .....	7 years
Employment applications.....	3 years	Stenographer's notebooks.....	1 year
Expense analyses and expense distribution schedules.....	7 years	Stock and bond certificates (cancelled).....	7 years
Financial statements (end-of-year, other months optional).....	Permanently	Stockroom withdrawal forms.....	1 year
General and private ledgers (and end-of-year trial balances).....	Permanently	Subsidiary ledgers.....	7 years
Insurance policies (expired).....	3 years	Tax returns and worksheets, revenue agents' reports and other documents relating to determination of income tax liability.....	Permanently
Insurance records, current accident reports, claims, policies, etc.....	Permanently	Time books.....	7 years
Internal audit reports (in some situations, longer retention periods may be desirable).....	3 years	Trademark registrations.....	Permanently
Internal reports (miscellaneous).....	3 years	Voucher registration and schedules.....	7 years
Inventories of products, materials, and supplies.....	7 years	Vouchers for payments to vendors, employees, etc. (includes allowances and reimbursement of employees, officers, etc., for travel and entertainment expenses).....	7 years